

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LA UNIÓN DEL PUEBLO ENTERO, et al.,

Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,

Defendants.

5:21-cv-844-XR

[Consolidated Cases]

PRIVATE PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY

Private Plaintiffs respectfully alert the Court to the recent decision in *League of Women Voters of Ohio v. LaRose*, No. 1:23-CV-02414, 2024 WL 3495332, (N.D. Ohio July 22, 2024).¹ In this case, the League of Women Voters of Ohio and an individual plaintiff challenged an Ohio law that criminally restricted who could return an absentee ballot on a variety of bases, including that the law was preempted by Section 208 of the Voting Rights Act. *Id.* at *1–2. Specifically, the law made it a felony for anyone but certain relatives of a voter, or employees or contractors of the United States Postal Service, or a private carrier to knowingly return the voter’s absentee ballot. *Id.* at *2. The original defendants were the Ohio Secretary of State, the Ohio Attorney General, and the County Prosecutor of Cuyahoga County. *Id.* at * 2. The Republican National Committee and the Ohio Republican Party then intervened as defendants. *Id.*

¹ After closing arguments on February 26, 2024, the Court instructed the parties that it did “not need any additional briefing,” but allowed for an advisory “in the event any of [the parties] become aware of a . . . district or circuit court case that directly bears right on all fours on any of the issues that we have in this case.” (Feb. 26, 2024 Tr. at 257:2–8). Any such advisory is to be limited to “summary, no argument.” (*Id.* at 257:10).

After briefing, the district court granted summary judgment in the plaintiffs’ favor on their Section 208 claims. *Id.* at *7–15. In doing so, the district court found that *FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024), did not preclude the League of Women Voters of Ohio (“LWVO”) from demonstrating a cognizable injury-in-fact for Article III standing purposes. *Id.* at *5 n.3. This was because “LWVO is not solely an issue-advocacy organization seeking to challenge” the Ohio law. *Id.* “Instead, it is a voter-advocacy organization whose core mission is to educate and assist voters” that did “not assert standing solely on the diversion of funds” but had also shown that it and its members were directly regulated by the challenged law. *Id.*

The district court additionally held that Section 208 permits private causes of action and applies both to in-person and absentee voting. *Id.* at *7–9. The court then concluded that “[l]ooking simply at the text of the statute and applying the ordinary meaning of ‘a person of the voter’s choice,’ Section 208 gives disabled voter[s] the right to choose who will facilitate the submission of their absentee ballot without further restriction by the state outside of the limitations specified in Section 208 itself. *Id.* at *9–14. Finally, the court held that Section 208 preempted the challenged law because “Section 208 unambiguously recognizes that disabled voters have a right to choose their own facilitator” and the law “directly contravenes that mandate” and “is also an obstacle to the full purposes and objectives of Congress.” *Id.* at *14–15.

Dated: August 1, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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